IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

WP(C).No. 19328 of 2006(A)

AGAINST THE ORDER DATED / / IN EP 123/2002 IN OS.270/2000 of ADDL.MUNSIFF COURT,NEDUMANGAD

.....

PETITIONER:

G.PEETHAMBARAN,
KRISHNA BHAVAN, KARINCHATHI,
NELLANADU MURI, NELLANADU VILLAGE.

BY ADV. SRI.M.RAJAGOPALAN NAIR
SRI.G.BIJU

RESPONDENT:

PRATHEEP KUMAR, S/O. SUKUMARAN,
KADAVILAKATHU PUTHEN VEEDU, THANDAMPOIKA,
NELLANADU MURI, VENJARAMOODU,
NEDUMANGADU TALUK.

BY ADV. SRI.R.S.KALKURA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P. (C) 19328/2006

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBT.P1: TRUE COPY OF THE E.P. NO.123/2002 FILED BY RESPONDENT BEFORE MUNSIFF COURT, NEDUMANGAD DATED 16.11.2002

EXHIBIT.P2: TRUE COPY OF THE OBJECTION FILED BY PETITIONER BEFORE EXECUTION COURT DATED 6.12.2005

EXHIBIT.P3: TRUE COPY OF THE ORDER DATED 20.6.2006 IN E.A.186/2005 IN E.P.123/2002 IN O.S.NO.270/2000 REJECTING COMMISSION APPLICATION

EXHIBIT.P4: TRUE COPY OF THE ORDER IN E.P. 123/2002 IN O.S.270/00 ORDERING PROCLAMATION AND SALE DATED 20.8.2006

EXHIBIT.P5: TRUE COPY OF THE SALE PROCLAMATION NOTICE DATED 5.7.2006

(TRUE COPY)

P.A. TO JUDGE

M.N.KRISHNAN, J.

==========

W.P. (C) No.19328 of 2006

==========

Dated this the 30th day of January, 2007

JUDGMENT

This writ petition is filed seeking to quash Exhibits P4 and P5. While admitting this court granted an order of interim stay to deposit an amount of Rs.25,000/- (Rupees Twenty five thousand only), which is admittedly paid by this time. The learned counsel for the petitioner submits that if instalment facilities are given he will wipe off the entire liability as per the decree. Heard the learned counsel for the decree holder as well. He expresses the apprehension of non-payment and protraction. I feel the said apprehension can be safeguarded by imposing some conditions. Therefore, the writ petition is disposed of directing the writ petitioner to pay the actual amount due under the decree in five monthly equal instalments. First instalment to be paid on or before 01-03-2007. If there is any default of one

instalment, he will forfeit the instalment facility and the court below can proceed with the sale of the property for recovery of the amount due under the decree. Writ petition is disposed of accordingly. Meanwhile, the decree holder shall also file a statement before the court below showing the actual amount due.

(M.N.KRISHNAN,JUDGE)

mma/